

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

May 27, 2020

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

MONICA PESINA, (01),
NICHOLAS SEAN CARTER, (02),

Defendants.

No. 2:19-cr-06063-SMJ-01

2:19-cr-06063-SMJ-02

**ORDER SETTING HEARING BY
VIDEOCONFERENCE**

In light of the ongoing public health crisis caused by the outbreak of the Coronavirus Disease 2019 (COVID-19) and the current status of Benton and Yakima Counties in the phased Safe Start plan announced by Washington Governor Jay Inslee, the Court has determined it is in interests of justice to conduct the hearing on Defendant Carter's (02) Motion to Suppress Evidence and Motion to Suppress Statements in this matter remotely. As such, consistent with Eastern District of Washington General Order 20-101-3, the hearing on the **Motion to Suppress Evidence and Motion to Suppress Statements, ECF Nos. 70 and 71**, currently set for in-person hearing June 3, 2020, is **STRICKEN** and **RESET** to **June 3, 2020 at 8:30 A.M.** by videoconference from Richland Courtroom 189 to the Benton

County Jail before Judge Salvador Mendoza, Jr. Defendants' presence for the videoconference will be arranged with the facility where Defendants are incarcerated.

IF EITHER DEFENDANT, AFTER CONSULTATION WITH DEFENSE COUNSEL, DOES NOT CONSENT TO THE HEARING BEING CONDUCTED BY VIDEOCONFERENCE, DEFENDANT SHALL FILE A NOTICE SO INDICATING AND REQUEST THE FORM OF RELIEF DEFENDANT DEEMS APPROPRIATE BY NO LATER THAN THREE DAYS AFTER THE ENTRY OF THIS ORDER. *Id.* § 15002(b)(4). Prior to filing any such objection, Defendant shall confer with counsel for the Government and state the Government's position in his or her objection.

ALL PARTIES MUST READ THE FOLLOWING INFORMATION CAREFULLY, AS IT PROVIDES IMPORTANT GUIDANCE CONCERNING THE MANNER IN WHICH THE HEARING IS TO BE CONDUCTED.

A. Hearing Information

Hearing content provided via videoconference access **MUST NOT be recorded or rebroadcast.** *Non-parties* may call the Court's public conference line at **1-888-808-6929**, Access code **3648461** (no security code required), five minutes before the scheduled conference time. *Case participants will be provided with*

1 separate call-in details by private email from the Court's staff to use for this
2 videoconference.

3 **B. Exhibits**

4 Any party intending to present exhibits at the hearing shall ensure the exhibits
5 are digitized in a manner compatible with remote presentation. Specifically, counsel
6 shall compile all documents into a **single, combined PDF file** and ensure each page
7 within the document is consecutively numbered.

8 In civil cases, the Plaintiff(s) shall consecutively number exhibits from **1**
9 through **499** and Defendant(s) shall consecutively number exhibits from **500**
10 through **999**. In criminal cases, the Government shall consecutively number exhibits
11 from **1** through **999**. In single-defendant criminal cases, Defendant shall
12 consecutively number exhibits from **1000** through **1999**; in multi-defendant
13 criminal cases, Defendants shall consecutively number exhibits from **x000** to **x999**,
14 substituting "x" for each Defendant's assigned case identifier (e.g., Defendant 3
15 would number exhibits from 3000 to 3999, etc.).

16 Any exhibit not compatible with the PDF file format (e.g., an audio or video
17 file) must be presented in a readily accessible file format using software commonly
18 available (e.g., .mp4 for video files, and .mp3 for audio files). Each non-PDF file
19 must be clearly identified by its file name. The Government shall name each such
20 file "Government xxxx," substituting "xxxx" with the number that follows the

number assigned to the last exhibit in the combined PDF file. The Plaintiff shall name each such file "Plaintiff xxxx" with "xxxx" replaced by the number following the number assigned to the final exhibit in the combined PDF file. The Defendant shall name each such file "Defendant xxxx," substituting "xxxx" with the number following the number assigned to the last exhibit in the combined PDF file.

Each party shall also submit a list of exhibits the party intends to introduce at the hearing. The parties shall provide their exhibit list in the following format:

Ex. #	Admitted	Description
1		Photograph of items seized
2		Aerial video surveillance from 1/1/2011. Start Time: 01:03:23 End Time: 01:09:54

Exhibit lists shall include a unique exhibit number and a brief description of the exhibit. For all exhibits consisting of an audio or video file, the exhibit list must designate the precise beginning and ending time indexes of the portion of the file the party intends to use at trial.

EACH PARTY'S DIGITIZED EXHIBITS AND EXHIBIT LIST SHALL BE PROVIDED ELECTRONICALLY TO (1) ALL OTHER PARTIES, (2) ANY WITNESS WITH WHOM THE PARTY ANTICIPATES USING THE EXHIBIT, AND (3) THE COURT BY EMAIL TO MendozaOrders@waed.uscourts.gov BY NO LATER THAN SEVENTY-TWO (72) HOURS PRIOR TO THE SCHEDULED HEARING.

1 Parties experiencing technical difficulties with digitizing exhibits or
2 electronically delivering them as described above may contact the Court's help desk
3 by email at HelpDesk@waed.uscourts.gov or by phone at (509) 458-3421.

4 C. Witnesses

5 Any party intending to present the testimony of a witness, including that of a
6 party, shall be responsible for arranging the witness's access to the technology
7 necessary to present their testimony (i.e., a suitable computer with high-speed
8 internet connection, video camera, and microphone) in coordination with the
9 District's IT professional. To ensure the Court and its staff have adequate
10 opportunity to prepare for the hearing, any party wishing to present the testimony
11 of a witness at the hearing shall so notify the courtroom deputy, and contact the
12 Court's help desk by email at HelpDesk@waed.uscourts.gov or by phone at
13 (509) 458-3421, by **no later than seven days** prior to the scheduled hearing.

14 Also, by **no later than seven days** prior to the scheduled hearing, each party
15 shall file and serve a list of witnesses that party intends to call to testify at the
16 hearing. In criminal matters, the witness list must identify the existence, but need
17 not include the name, of any confidential informant the Government intends to call
18 to testify. Each party shall email copies of their witness list to the Court at
19 MendozaOrders@waed.uscourts.gov.


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1 **D. Sealed Hearings**

2 Any party who anticipates requesting to seal all or part of any hearing shall
3 so notify the courtroom deputy by **no later than seven days** prior to the scheduled
4 hearing.

5 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
6 provide copies to all counsel, the U.S. Probation Office, and the U.S. Marshals
7 Service.

8 **DATED** this 27th day of May 2020.

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11 SALVADOR MENDOZA JR.
United States District Judge